



STATE OF ALABAMA
PUBLIC SERVICE COMMISSION
P.O. BOX 304260
MONTGOMERY, ALABAMA 36130

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SEATUS TECHNOLOGIES, LLC
D/B/A WYTH

DOCKET 33197

PERMIT TNC-5

Applicant

ORDER

BY THE COMMISSION:

By application filed on or about November 22, 2021, Seatus Technologies, LLC d/b/a Wyth ("Wyth" or "Applicant"), 1430 Gadsden Highway, Suite 116-565, Birmingham, Alabama 35235 (mailing address: 14007 South Bell Road, Suite 244, Homer Glen, Illinois 60491), seeks authority to operate as a transportation network company ("TNC") in the State of Alabama. The Commission set Wyth's application for public hearing on January 18, 2022, issuing public notice of the hearing on December 29, 2021.

Wyth's permit application was filed pursuant to Alabama Legislative Act No. 2018-127 ("TNC Act")¹ and the Commission's TNC Rules. The TNC Act created a framework for the statewide regulation of TNCs and TNC drivers, placing these entities under the regulatory jurisdiction of the Commission. The TNC Act states that the Commission "shall issue a permit to each applicant that meets the requirements for a TNC under this act." Rule TNC-3 of the Commission's TNC Rules addresses the statutory requirements which must be met in order for the

¹ Alabama Legislative Act No. 2018-127 is codified at § 32-7C-20 through § 32-7C-37, *Code of Alabama*, 1975.

Commission to issue a permit and requires the submission of certain documents in support of these statutory requirements.

Requirements of the TNC Act and Rule TNC-3

Pursuant to the TNC Act and Rule TNC-3, an applicant must satisfy the following criteria in order to receive a TNC permit.

(a) TNC shall disclose to the rider the fare or fare calculation in its digital network.

If the fare is not disclosed to the rider before the beginning of the prearranged ride, the rider shall have the option to receive an estimated fare before the beginning of the prearranged ride.

(b) TNC's digital network shall display a picture of the TNC driver, the first name of the TNC driver, and the make, model, and license plate number of the TNC driver's vehicle before the rider enters the TNC vehicle. In the photo of the TNC driver displayed on the digital network, the TNC driver must: be facing directly into the camera; be the only person in the photograph; be clearly identifiable; show full face and top of shoulders; and not be wearing sunglasses or other accessories that prevent clear identification.

(c) Within two hours following the completion of a trip, a TNC shall transmit an electronic receipt to the rider that lists all of the following: the origin and destination of the trip; the total time and distance of the trip; the total fare paid; and the TNC driver's first name. The receipt transmit period is tolled for any delays in receipt transmission caused by a TNC rider or any delivery system issues beyond the

reasonable control of the TNC. An electronic receipt may be sent via electronic mail or made available through the TNC's digital network.

(d) TNC shall complete all of the required statutory checks before allowing an individual to accept trip requests through that TNC's digital network as a driver. After allowing an individual to accept trip requests through that TNC's digital network as a driver, a TNC shall annually screen drivers for compliance with the requirements in Section 10 of the Act.

(e) TNC shall establish and enforce a zero tolerance intoxicating substance policy for TNC drivers that prohibits any amount of intoxication of the driver while providing transportation network services.

(f) TNC shall include on its website, in a prominent location, a notice concerning the TNC's zero tolerance intoxicating substance policy and the means to make a complaint about a suspected violation of the policy.

(g) Upon receipt of a rider complaint alleging a violation of the zero tolerance intoxicating substance policy, the TNC shall immediately suspend the TNC driver's access to the TNC's digital network and conduct an investigation into the reported incident. The suspension shall last the duration of the investigation.

(h) The TNC's zero tolerance intoxicating substance policy shall include a description of the corrective measures to be taken against a TNC driver if the TNC confirms that the TNC driver has violated the terms of the zero tolerance intoxicating substance policy.

(i) The TNC shall adopt a policy of nondiscrimination against riders or potential riders who are protected by Title 7, Civil Rights Act of 1964, 42 U.S.C. 2000e. et. seq. or the Americans With Disabilities Act of 1990. TNC may not impose additional charges for providing services to individuals with physical disabilities because of those disabilities.

(j) TNC shall maintain an agent for service of process in the State.

(k) TNC shall maintain records as required by the Act.

In addition, an applicant shall submit the following items with its application:

- (a) Application fee of \$700;
- (b) Articles of Incorporation or Articles of Organization;
- (c) Nondiscrimination Policy;
- (d) Zero Tolerance Intoxicating Substance Policy;
- (e) Illustration of TNC's trade dress;
- (f) Method that TNC will use to calculate customer fares;
- (g) TNC's Record Retention Policy;
- (h) TNC policy regarding periodic checks of TNC drivers to ensure that the TNC drivers using its digital network continue to meet the initial standards for TNC drivers described in the Act;
- (i) Certificate of Insurance;
- (j) TNC's procedures for responding to requests from law enforcement;
- (k) Name of agent for service of process in the state; and
- (l) Copy of TNC Vehicle Safety Inspection Form.

Wyth's Permit Application and Hearing Testimony

In its permit application, an authorized representative for Wyth provided a sworn statement that the Applicant will comply with all of the statutory requirements, as summarized in the lists in the previous section. The permit application included the items required by Rule TNC-3; however, the formatting of the enclosed safety inspection form made it difficult to understand. Following the hearing, Wyth submitted a reformatted vehicle safety inspection form that contained all of the required items.

At the hearing, Mr. Khalil Shalabi, the founder and Chief Executive Officer of Wyth, testified that the Applicant desired to launch a pilot TNC program for the University of Alabama community, providing “closed-loop ride share [service] and carpool transportation solutions.” He defined “closed-loop” service as limited to the university community—all drivers and riders would be students, faculty, or staff operating within about three miles of campus. He contended that an advantage of a closed-loop service is that customers and their parents feel more comfortable with TNC drivers associated with their university. Mr. Shalabi stated that Wyth would initially charge a set fee per ride but would consult with the University of Alabama and related organizations about price changes. He testified that Wyth may expand to other universities in the state later in the year. In addition to the closed-loop ride share service, Mr. Shalabi indicated that Wyth would also provide carpool services. He defined carpool service as longer trips, such as trips to the airport or home for the holidays. He testified that Wyth’s carpool riders would negotiate a payment with the drivers and that Wyth would receive 25 percent of the agreed upon payment.

Jurisdiction

During Mr. Shalabi's discussion of the Applicant's proposed carpool services, counsel for Wyth interjected that "carpooling is outside of the scope of [the Commission's jurisdiction over TNCs]." While not fleshed out by counsel at the hearing, her jurisdictional comment likely refers to the carve out for a "shared expense carpool" in the TNC Act's definition of a prearranged ride. That carve out explicitly applies to shared expense carpool services provided "pursuant to the Alabama Motor Carrier Act." Ala. Code § 32-7C-1. Wyth does not have authority to provide carpool service, or any other transportation service, pursuant to the Alabama Motor Carrier Act. Therefore, this carpool carve-out of the definition of a prearranged ride does not apply to Wyth.

Since the carpool carve-out is inapplicable to Wyth, the jurisdictional determination is based on whether the proposed services satisfy the other jurisdictional elements of the TNC Act. Those jurisdictional elements are scattered throughout cross-referenced definitions in the TNC Act—the definition of "TNC" cross-references four other defined terms. Reviewing all of the jurisdictional elements in these definitions, Wyth appears to meet the definition of a "TNC" because it is an entity that "uses a digital network to connect a TNC rider to a TNC driver who provides a prearranged ride." *See* Ala. Code § 32-7C-1. Therefore, Wyth's proposed TNC operations, including the described carpool service, fall within the Commission's jurisdiction over TNCs. Wyth appears to generally agree with this determination since it applied for a TNC permit with the Commission. However, if Wyth disputes Commission jurisdiction over any aspect of its proposed or future operations, it shall file such jurisdictional dispute with the Commission.

Findings

Through its application, hearing testimony, and post-hearing submission, Wyth demonstrated that it meets the requirements for a TNC pursuant to the TNC Act. During the hearing, Wyth's witnesses referenced the proposed operations as a "pilot" program and its counsel indicated a "need for flexibility down the road." Wyth's proposed operations, which focus on college campuses and charge a flat fee, are unique for Alabama TNCs. Because of the uniqueness of this "pilot" TNC program, the Commission finds that communications between Wyth and Staff are imperative. The importance of continued contact with Staff was recognized at the hearing and Mr. Shalabi pledged to communicate with Commission Staff about any changes to Wyth's operations. Therefore, while this permit application is due to be approved, Wyth shall file a brief status report on its pilot TNC program on or before June 1, 2022.

IT IS, THEREFORE, ORDERED BY THE COMMISSION, that Transportation Network Company Permit 5 (Permit TNC-5) is hereby issued to Seatus Technologies, LLC d/b/a Wyth, authorizing operations as a TNC in the State of Alabama.

IT IS FURTHER ORDERED BY THE COMMISSION, that Wyth shall file a status report with the Commission on its TNC pilot program on or before June 1, 2022.

IT IS FURTHER ORDERED BY THE COMMISSION, that Wyth shall notify the Commission and its drivers within thirty (30) days of any changes to its policies that are required by this Act or the TNC Rules.

IT IS FURTHER ORDERED BY THE COMMISSION, that the operations herein authorized shall be subject to all the rights, privileges and immunities as well as all the restrictions,

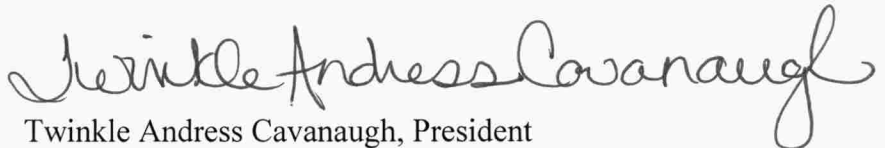
liabilities and responsibilities that are now or may hereafter be imposed by law or the rules and regulations of this Commission upon TNCs.

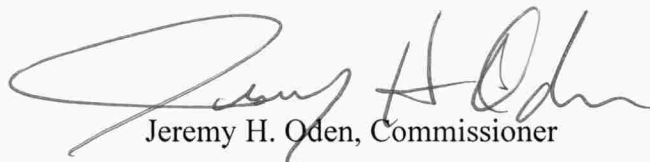
IT IS FURTHER ORDERED BY THE COMMISSION, that jurisdiction in this cause is hereby retained for the issuance of any further order or orders as may appear to be just and reasonable in the premise.

IT IS FURTHER ORDERED, that this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 2nd day of February 2022.

ALABAMA PUBLIC SERVICE COMMISSION

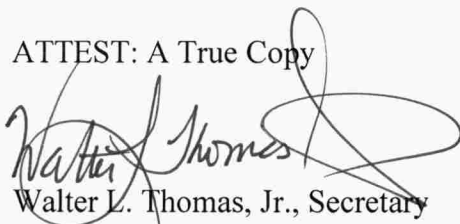

Twinkle Andress Cavanaugh, President


Jeremy H. Oden, Commissioner



Chris "Chip" Beeker, Jr., Commissioner

ATTEST: A True Copy


Walter L. Thomas, Jr., Secretary